



BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2016-0259; FRL-9964-94]

1-Triacontanol; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of the biochemical pesticide 1-triacontanol (TA) in or on all food commodities when used in accordance with label directions and good agricultural practices. CH Biotech R&D, Co., LTD submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of TA in or on all food commodities when used in accordance with label directions and good agricultural practices.

DATES: This regulation is effective [*insert date of publication in the Federal Register*].

Objections and requests for hearings must be received on or before [*insert date 60 days after date of publication in the Federal Register*], and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2016-0259, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution

Ave., NW., Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Robert McNally, Biopesticides, and Pollution Prevention Division (BPPD) (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; main telephone number: (703) 305-7090; email address: BPPDFRNotices@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How Can I Get Electronic Access to Other Related Information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.

C. How Can I File an Objection or Hearing Request?

Under FFDCFA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2016-0259 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before *[insert date 60 days after date of publication in the **Federal Register**]*. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA-HQ-OPP-2016-0259, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- *Hand Delivery*: To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

II. Background and Statutory Findings

In the **Federal Register** of August 29, 2016 (81 FR 59165) (FRL-9950-22), EPA issued a document pursuant to FFDCa section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 6F8459) by CH Biotech R&D Co., LTD C/O Spring Trading Company, 203 Dogwood Trail, Magnolia, TX 77354. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of 1-triacontanol. That document referenced a summary of the petition prepared by the petitioner James Yowell of Spring Trading Company, which is available in the docket, <http://www.regulations.gov>. There were no comments received in response to the notice of filing.

Section 408(c)(2)(A)(i) of FFDCa allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is “safe.” Section 408(c)(2)(A)(ii) of FFDCa defines “safe” to mean that “there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.” This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Pursuant to FFDCa section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCa section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children

to the pesticide chemical residue in establishing a tolerance and to “ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....” Additionally, FFDCA section 408(b)(2)(D) requires that the Agency consider “available information concerning the cumulative effects of a particular pesticide’s residues” and “other substances that have a common mechanism of toxicity.”

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Toxicological Profile

Consistent with FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability, and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

A. Overview of 1-Triacontanol

1-Triacontanol (TA), a long chain fatty alcohol (LCOH- C30), naturally occurs in plant, and insect waxes and constitutes a regular part of the human diet. As a pesticide, TA functions as a plant growth regulator. It promotes germination, root, stem and leaf growth, and flowering, as well as improving the seed, thus increasing plant production and quality. In terms of the mechanism of action, TA can be absorbed through the plant’s stem and leaf, and may promote plant growth, increase accumulation of dry matter, improve the permeability of cell membrane, increase chlorophyll content, improve photosynthetic intensity, and increase activity of amylase, oxidase and peroxidase. With regard to its presence in insect wax, TA constitutes the majority of

long chain fatty alcohols found in beeswax, naturally secreted through the bee's abdomen. In addition to the dietary consumption of TA from foods, humans are already exposed to 1-triacontanol because of its use in cosmetics, toiletries, surface lubricants, and pharmaceutical preparations; products that are broadly used across the consumer products industry with highest per person consumer exposures resulting from use in personal care products. For the pharmaceutical industry, there are overall health benefits such as anti-inflammatory and cholesterol lowering properties from the use of TA (Federal Food, Drug, and Cosmetic Act (FFDCA) Considerations for 1-Triacontanol EPA-HQ-OPP-2016-0259).

An aggregate risk assessment for TA for dietary (food and drinking water) exposures was not conducted as no toxicological endpoints have been identified in the toxicity database. EPA has determined under the FFDCA that there is reasonable certainty that no harm will result to the general population or to infants and children from aggregate exposure to TA.

There are no human health or environmental risks of concern associated with this assessment. Therefore, EPA has no objection to the registration of the proposed manufacturing use product, associated end use product, and an exemption from a food tolerance.

For a summary of the data upon which EPA relied, please refer to the document entitled, "Federal Food, Drug, and Cosmetic Act (FFDCA) Considerations for 1-Triacontanol" (June 13, 2017), available in the docket for this action.

B. Biochemical Pesticide Toxicology Data Requirements

All applicable toxicology data requirements supporting the petition to establish an exemption from the requirement of a tolerance for the use of TA as an active ingredient in or on food commodities, when used in accordance with label direction and good agricultural practices, have been fulfilled. Based on the submitted data and the results of studies using comparable long chain fatty alcohols, there are no human health risks of concern associated with TA and

there is sufficient information to justify an exemption from the requirement of a tolerance for this compound on all food commodities. Acute studies on TA show that this long chain fatty alcohol is Toxicology Category IV for: Acute oral toxicity, Acute dermal toxicity, Acute eye irritation, and Primary dermal irritation. TA is not a dermal sensitizer. Waivers were granted for subchronic toxicology studies including the 90-day Oral study, Developmental toxicity study, and Genetic toxicity testing based on existing scientific literature for structurally similar long chain fatty alcohols that demonstrate that fatty alcohols rapidly and readily become degradable and pose no risks to human health or to the environment.

IV. Aggregate Exposures

In examining aggregate exposure, FFDCA section 408 directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

A. Dietary Exposure

An aggregate risk assessment for TA for dietary (food and drinking water) exposures was not conducted as no toxicological endpoints have been identified in the toxicity database.

B. Other Non-Occupational Exposure

Other non-occupational exposure to 1-triacontanol from pesticidal use is not expected to occur as the TA biodegrades rapidly and the product is applied at low application rates of 500 part per millions (ppm) three to four times per season. There are no residential uses for TA that would result in non-occupational exposure.

V. Cumulative Effects from Substances with a Common Mechanism of Toxicity

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider “available information” concerning the cumulative effects of a particular pesticide’s residues and “other substances that have a common mechanism of toxicity.”

EPA has not found TA to share a common mechanism of toxicity with any other substances, and TA does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that TA does not have a common mechanism of toxicity with other substances. For information regarding EPA’s efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA’s website at <http://www.epa.gov/pesticides/cumulative>.

VI. Determination of Safety for U.S. Population, Infants and Children

FFDCA section 408(b)(2)(C) provides that, in considering the establishment of a tolerance or tolerance exemption for a pesticide chemical residue, EPA shall assess the available information about consumption patterns among infants and children, special susceptibility of infants and children to pesticide chemical residues, and the cumulative effects on infants and children of the residues and other substances with a common mechanism of toxicity. In addition, FFDCA section 408(b)(2)(C) provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure, unless EPA determines that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act Safety Factor. In applying this provision, EPA either retains the default value of 10X, or uses a different

additional or no safety factor when reliable data are available to support a different additional or no safety factor.

As part of its qualitative assessment, EPA evaluated the available toxicity and exposure data on TA and considered its validity, completeness, and reliability, as well as the relationship of this information to human risk. EPA considers the toxicity database to be complete and has identified no residual uncertainty with regard to prenatal and postnatal toxicity or exposure. No hazard was identified based on the available studies; therefore, EPA concludes that there are no threshold effects of concern to infants, children, or adults from TA. As a result, EPA concludes that no additional margin of exposure (safety) is necessary.

VII. Other Considerations

A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDC section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL;

however, FFDCa section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for 1-triacontanol.

VIII. Conclusions

Based on its assessment of 1-triacontanol, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children, from aggregate exposure to 1-triacontanol. Therefore, an exemption is established for residues of 1-triacontanol on all food commodities when used in accordance with label directions and good agricultural practices.

IX. Statutory and Executive Order Reviews

This action establishes a tolerance under FFDCa section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled "Regulatory Planning and Review" (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCa section 408(d), such as the tolerance in this final rule, do not require the issuance of a

proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

X. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 31, 2017.

Richard P. Keigwin, Jr.,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180--[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

2. Add §180.1345 to subpart D to read as follows:

§ 180.1345 1-Triacontanol; exemption from the requirement of a tolerance.

Residues of the biochemical pesticide 1-Triacontanol are exempt from the requirement of a tolerance in or on all food commodities.

[FR Doc. 2017-17338 Filed: 8/15/2017 8:45 am; Publication Date: 8/16/2017]